



CHALLENGES IN LAND ALLOCATION, ADMINISTRATION BY THE TRADITIONAL AUTHORITIES AND COMMUNAL LAND BOARDS AND THE DEVELOPMENT OF COMMUNAL AREAS

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Background

- Before the Communal Land Reform Act, Act No. 5 of 2002 (CLRA)
- Traditional Authorities (TAs) were solely responsible for land allocation, cancellation and administration of communal land
- TA's also administered the Permission to Occupy (PTO) now converted to Leasehold
- The Act establish Communal Land Boards (CLB) to assist the TA's in land administration & management.
- This all came from Resolution 18 of the 1991 Land Conference, which states TA continue allocation of communal lands and CLBs to be administrators

Background Cont...

- The CLRA did not abolish the role of the TA but they have to work alongside the CLB with clearly defined powers & functions.
- The TAs allocate & cancel Customary Land Rights which the CLBs have to ratify.
- CLBs consider & cancel Leaseholds and TAs have to consent
- Both have powers to remove illegal fences
- Their decisions can be appealed against by any aggrieved party to the Minister

Challenges in Land Allocation & Land Administration

- The main challenges that have affected smooth registration & resolving of disputes are:
 - Misconception of the powers between TAs and CLBs
 - TAs allocating or cancelling leasehold
 - Limited technical capacity of both
 - Inability to interpret the CLRA correctly
 - Traditional Authorities area of jurisdiction
 - Registration can't progress, land development is halted
 - Unrecognized TAs discourage their subjects to register

Challenges cont.

- Inability to remove illegal fences
 - ▭ Who should remove illegal fences, TA or CLB
 - ▭ Procedures not clear on how to cause removal
- Lack of adequate resources for both TAs and CLBs (logistics and financial)
 - ▭ TAs lack even stationeries to keep records of allocations and decisions
 - ▭ No financial allocation for land function by TAs
 - ▭ CLB budget not adequate for the huge task
- Lack of in-depth knowledge of the CLRA)
 - ▭ Decisions of both are often appealed against

Misconceptions of powers lead to appeals

Region	No. of Appeals					
	2012	2013	2014	2015	2016	2017
Kavango (East & West)	5	6	8	4	4	0
Ohangwena	3	6	2	4	6	2
Omaheke	5	6	6	1	11	2
Omusati	1	2	6	6	5	3
Otjozondjupa	0	12	16	4	1	1
Zambezi	3	9	17	4	10	2
Total	17	41	57	23	37	10

Lack of technical capacity of CLBs

- At the beginning CLBs lack knowledge of the provision of CLRA
 - Training offered at beginning of the CLBs term but too compact and non legal person may not comprehend all in a week
- Lack trained personnel, ICT equipment, transport
 - Trained personnel supplied by PoN Land management courses, ICT equipments and vehicles provided by MLR and Donors
- These challenges were address by MLR assisted by donors, though not eliminated

Donors Assistance in CLB Capacity Building

Period	Institution	Assistance Rendered
2004 till date	GIZ	<ul style="list-style-type: none"> • Funding training of Land Board training every three years • Logistical support (i.e. vehicles) & NCLAS • Advisory function to Communal farmers
2006	Ministry of Land Reform	<ul style="list-style-type: none"> • Increased the budget of the division Land Board Tenure & Advise (LBTA) from 3.6 million in 2006 to 27 million • Employed casual registration officer in all the land board served regions • The ministry added two staff assigned to assist the Land Boards from one personnel.
2009 - 2014	Millennium Challenge Account (MCA) through Communal Land Support (CLS)	<ul style="list-style-type: none"> • Focused on investigation, verification & registration of communal land rights in the 6 region of operation • Broad based campaign to create awareness about provisions of the Act. • Facilitated the provision of group rights for the commonage • Compile some communication materials
2005 - 2011	Rural Poverty Reduction Program (PRP)	<ul style="list-style-type: none"> • Assisted Communal Land Registration by providing aerial photographs and the development of Namibian Communal Land Administrative System (NCLAS) • Development a registration road map with its budget
2013 till date	Basket Fund	<ul style="list-style-type: none"> • Development of Programme for Communal Land Development (PCLD) focusing of infrastructure development • Developed a comprehensive communication strategy • Contributed to capacity co- funded the mobile registration team • Logistical support (vehicles, ICT equipments camping gears ect.)

Challenges to remove illegal fences

- Section 18 of the CLRA prohibit erection of new fences without authorization
- Section 44 criminalized the erection of fences without permission or retention of a fence after its recognition is denied
- These provisions had not help the situation;
 - Unclear procedure to remove fences
 - Order to remove illegal fences contested
 - Difficulties to distinguish new and old as recognitions of existing land right took long

Illegal fences

- Illegal fencing is prevalent in some regions and in some not existing at all
 - In regions such as Karas, Hardap, Erongo and Zambezi
- The document states only regions where high cases of illegal fences were reported

Regions High Incidences of Illegal Fences

Region	No. of Illegal Fences			
	2012	2013	2014	2015
Kavango (East & West)	7	15	14	0
Ohangwena	45	31	17	14
Omaheke	4	12	21	11
Omusati	14	8	11	9
Oshikoto	4	4	5	3
Otjozondjupa	11	6	37	4
Total	85	76	105	41

Nature of TAs Set Up Hamper Progress

- Issues of jurisdiction
- Lack of understanding of the provisions of the CLRA leading to unclear roles and functions
- Unrecognized TAs
- Lack of stationeries
- No record management systems
- No budget for land matters
- No transportation

Financial challenges

- The CLBs started with a very low budget of about 2.6 million in 2006/2007
- MLR continue to increase budgetary allocation as illustrate in the table
- Only when that of the donor increased though the Basket Fund that MLR budget decreased

Budget Allocation to CLB by MLR

Financial Year	Amount (N\$)
2011/2012	23,755 million
2012/2013	27,364 million
2013/2014	23,260 million
2014/2015	5,035 million
2015/2016	10,106 million

Conclusion

- The Ministry of Land Reform has since the operation of the CLRA sought to address the challenges as outlined above by increasing budget allocation
- And solicit funds from donors to address challenges as all require financial resources.
- Yet, funds are not sufficient to meet all needs to make Namibian Communal Land Development a case in point
- Money is just a means and not an end in itself
- Land remains a complex issue requiring multi-sectoral approach and cooperation of all stakeholders involved in land allocation & administration.
- till all stakeholder come on board, challenges remain